

Date: 11/20/2023

KEVIN P. WEIMER, Clerk

By: Lisa Enix

Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA

*v.*

JUSTIN NEWKIRK

Criminal Information

No. 1:23-CR-371-MHC

THE UNITED STATES ATTORNEY CHARGES THAT:

**Background**

At all times material to this Information:

1. The United States Penitentiary in Atlanta, Georgia (USP-Atlanta) was a facility operated and controlled by the Federal Bureau of Prisons (BOP), which is responsible for the custody, control, care, and safety of inmates who have been sentenced to imprisonment for federal crimes.
2. The defendant, JUSTIN NEWKIRK, was employed by BOP as a correctional officer at USP-Atlanta.
3. M.N. was an inmate housed at USP-Atlanta.

**Count One**

The U.S. Attorney re-alleges and incorporates by reference the factual allegations contained in paragraphs 1 through 3 of this Information as if fully set forth herein.

On or about March 17, 2022, in the Northern District of Georgia, the defendant, JUSTIN NEWKIRK, while acting under color of law, willfully deprived M.N. of the right, secured and protected by the Constitution and laws of the United States, to be free from cruel and unusual punishment. Specifically, the defendant repeatedly sprayed M.N. with pepper spray (also known as oleoresin capsicum) without a legitimate penological purpose.

All in violation of Title 18, United States Code, Section 242.

### **Count Two**

The U.S. Attorney re-alleges and incorporates by reference the factual allegations contained in paragraphs 1 through 3 of this Information as if fully set forth herein.

On or about March 17, 2022, in the Northern District of Georgia, the defendant, JUSTIN NEWKIRK, then a correctional officer at USP-Atlanta, acting in relation to or in contemplation of a matter within the jurisdiction of an agency of the United States, knowingly falsified and made a false entry in a record and document, to wit: the defendant wrote an incident report falsely describing his physical interaction with M.N., an inmate, in relation to the defendant's use of physical force by spraying M.N. with pepper spray (also known as oleoresin capsicum) with the intent to impede, obstruct, and influence the investigation of a matter within federal jurisdiction. Specifically, the defendant wrote, in pertinent part, (1) "inmate [M.N.] then lunged at me with closed fist in an aggressive manner showing imminent signs of violence" and (2) the defendant

intentionally omitted and concealed in his report that he deployed pepper spray multiple times during his interaction with M.N.

All in violation of Title 18, United States Code, Section 1519.

RYAN K. BUCHANAN

*United States Attorney*

BRET R. HOBSON

*Assistant United States Attorney*

Georgia Bar No. 882520

BRENT ALAN GRAY

*Assistant United States Attorney*

Georgia Bar No. 155089

600 U.S. Courthouse

75 Ted Turner Drive SW

Atlanta, GA 30303

404-581-6000; Fax: 404-581-6181